IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

WP(C).No. 17019 of 2005(A)

IA.1413/02 IN OS.283/1999 of MUNSIFF'S COURT, OTTAPPALAM

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PETITIONER:

SUNDARAN, S/O.PANTHAPULAKKIL THERUVIL
ARUNACHALAN MUTHALI, KULUKKILIYAD AMSOM,
KOTTAPPURAM DESOM, OTTAPPALAM TALUK.

BY ADV. SRI.SANTHEEP ANKARATH
SRI.P.P.SURESHKUMAR

RESPONDENTS:

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1. KUMARAN, S/O.LATE PANTHAPULAKKIL
THEURVIL ARUNACHALAN MUTHALI, KULUKKILIYAD AMSOM,
KOTTAPPURAM DESOM, OTTAPPALAM TALUK.

2. PONNAMMAL, W/O.LATE PANTHAPULAKKIL
THERUVIL ARUNACHALAN MUTHALI, DO. DO.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.17019/05

APPENDIX

PETITIONER'S EXTS:

Ext.P1 – TRUE COPY OF REPORT SUBMITTED BY ADV.COMMR., DT.1.7.02.

Ext.P2 – TRUE COPY OF PLAN SUBMITTED BY ADV.COMMR. AND THAT OF VILLAGE OFFICER DT.4.3.01.

Ext.P3 – TRUE COPY OF ORDER PASSED BY THE MUNSIFF, OTTAPPALAM, DT.23.10.02 IN I.A.1413/02 IN O.S.283/99.

Ext.P4 – TRUE COPY OF ORDER OF THIS COURT DT.15.2.05 IN CRP.2681/02

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C) No.17019 OF 2005

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DATED THIS THE 30TH MAY, 2007

J U D G M E N T

There is no appearance for the respondents though they were served with notice by this Court.

2. Ext.P3 order passed by the trial court on an application submitted by the petitioner-plaintiff for setting aside the advocate-commissioner's plan and report is under challenge. The persuasive submissions of Mr.Santheep Ankarath, learned counsel for the petitioner notwithstanding, I am unable to say that Ext.P3 order is so wholly unreasonable as to warrant interference by this Court in its visitorial jurisdiction under Article 227 of the Constitution. But one submission of Mr.Santheep has some appeal. The learned counsel invited my attention to the order dated 11.9.2001 passed by the learned Munsiff pursuant to which only the commissioner came to file Ext.P1 report. That order will show that on agreement by both sides the court remitted the commissioner's report giving opportunity to both sides to file work memos. Mr.Santheep submitted that there are good reasons as to why work memo could not be filed by his client, the plaintiff before the advocate commissioner.

Under these circumstances, even as I refuse to interfere with

Ext.P3, I permit the petitioner to submit the work memo, which he wanted to file before the commissioner, in court and file an application before the court to direct the commissioner to conduct a further inspection on the basis of the above work memo. If such an application is filed by the petitioner within two weeks of his receiving copy of this judgment, the learned Munsiff will dispose of that application at his earliest and at any rate within another three weeks from that date.

The Writ Petition is disposed of as above.

(PIUS C. KURIAKOSE, JUDGE)

tgl